IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.3659 of 2000
Date of decision:08.9.2006

Zamindara Motor Transport Cooperative Society Limited
Sri Ganganagar (Rajasthan).

...Petitioner

v.

The State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: None for the petitioner.
Ms. Ritu Bahri, DAG, Haryana.

JUDGMENT:

This judgment will dispose of Civil Writ Petition Nos.3659, 4013, of 2000, 2570, 11549, 18161, 18206 of 2002, 523, 8758 and 9351 of 2006. Facts have been taken from CWP No.3659 of 2000. These may be briefly noticed.

This writ petition seeks injunction against imposition of passenger tax as the petitioner was paying composite fee of Rs.12000/- per quarter per State.

Case of the petitioner is that it is holding All India Tourist Permit and is not liable to pay passenger tax on day to day basis since quarterly composite fee of Rs.12000/- for each State was being paid. In judgment dated 14.7.1998 rendered by a division Bench of this Court in Civil Writ Petition no.15747 of 1997 (M/s Jimmy Tavels v. Union of India and others), it was held that tourist operators constitute a separate class and were liable to pay composite fee of Rs.12000/- per State in addition to tax payable in the home State. It is further stated that provisions of Punjab Passengers and Goods Taxation Act, 1952 (for short, 'the 1952 Act') could

not be applied in violation of provisions of Motor Vehicles Act, 1988 (for short, 'the 1988 Act') and Motor Vehicles Rules, 1989 (for short, 'the Rules').

In the reply filed, stand taken is that concept of charging composite fee from All India permit for tourist transport operators has not been accepted by the State. Judgment of Division Bench of this Court in CWP No.15747 of 1997 was applicable only till a conscious decision was taken by the State.

Learned counsel for the State points out that the issue is since covered by a judgment of the Hon'ble Supreme Court in **M/s Sharma Transport v. Government of AP and others,** AIR 2002 SC 322, wherein the Hon'ble Supreme Court held that the Parliament having not laid down any principles for levy of taxes on vehicles under Entry 34 of List III, power to levy such taxes vested solely in the State Legislature. It was further held that Rule 84 of the Rules did not affect liability to pay taxes under the law.

In view of the above, liability of the petitioners to pay passenger tax under the provisions of the 1952 Act and the rules framed thereunder, is not excluded.

Accordingly these petitions are dismissed.

(Adarsh Kumar Goel)
Judge

Sept. 8, 2006 (Rajesh Bindal)
'gs' Judge